

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Thomas W. Beaumont,)	
)	
Petitioner,)	
)	Civil Action No. 9:18-3142-BHH
v.)	
)	<u>ORDER</u>
Donald H. Layton, Federal National)	
Mortgage Corporation, Montague)	
Laffitte, and Palmetto State Bank,)	
)	
Respondent.)	
_____)	

This matter is before the Court on Plaintiff Thomas W. Beaumont's ("Beaumont" or "Plaintiff") complaint filed pursuant to South Carolina Code Ann. § 36-3-603. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review.

On April 8, 2019, Magistrate Judge Mary Gordon Baker filed a Report and Recommendation ("Report") outlining the issues and recommending that the Court dismiss this action without prejudice based on Plaintiff's failure to respond to Defendants' motion for judgment on the pleadings or, in the alternative, for default judgment. Attached to the Report was a notice advising the parties of their right to file written objections to the Report within fourteen days of being served with a copy.

On April 22, 2019, Defendants filed objections to the Magistrate Judge's Report, asserting that the Report fails to address their counterclaim for attorney's fees and costs based on the contractual provisions in the loan documents. Plaintiff did not file specific objections to the Report, but on May 6, 2019, he filed an affidavit asserting that he never

received the Magistrate Judge's prior order, which granted his motion for an extension of time to respond to Defendants' motion. After review, although the Court agrees with the Magistrate Judge's analysis based on the record that was before her, in light of Plaintiff's affidavit and Defendants' objections, the Court declines to adopt the Magistrate Judge's Report (ECF No. 27) at this time and instead remands the matter to the Magistrate Judge for further consideration of the merits of the parties' claims.

AND IT IS SO ORDERED.

/s/Bruce H. Hendricks
The Honorable Bruce Howe Hendricks
United States District Judge

May 10, 2019
Charleston, South Carolina